
OBSERVATIONS

ON THE

Review of the Controversy

BETWEEN

GREAT-BRITAIN

AND HER COLONIES.

[Price One Shilling.]

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Review of the Controversy

BETWEEN

GRANT & RYAN

AND HER GOVERNMENT

[Price One Dollar]

British Colonies.

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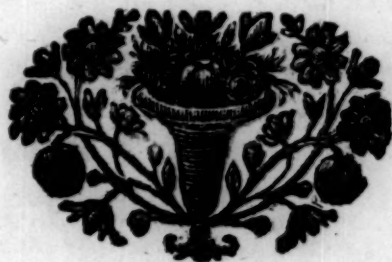
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1823

GREAT-BRITAIN

AND

HER COLONIES.



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THERE are two methods by which
 a cause may be supported ; either by
 a positive proof that the right is on
 the one side of the question ; or by a re-
 futation of the arguments urged on the
 other. The former is the shorter method,
 and, in general, the more satisfactory ; the
 latter can never be decisive, unless *all* the
 arguments on the opposite side be refuted,
 or at least all such as have any degree of
 B weight.

weight. An attempt at the latter is by far the more favourable to deception, and a weak cause, for it is easy to find some real or seeming defect in *some* of the arguments that have been produced, especially if the subject has been agitated for a length of time, and treated of by a variety of writers; and if the candour and judgement of some readers may lead to examine *how much* has been proved or obviated; yet the generality, when they see the weakest arguments of the weakest antagonist receive a refutation, are ready to exclaim—This author has proved his point, he has gained the victory.—The review of the controversy is an attempt of this nature, and the principal objection I alledge against it is, that it reviews but a small part of the controversy.—He has shewn, indeed, that *some* of the American advocates have not avoided confusion in their method of stating their arguments, sometimes appealing to the rights of nature, sometimes to the British constitution; he has shewn that *some* of his opponents have been inconsistent with themselves; and he has opposed the arguments of some, to the opinions of others, —this he has done, and this it was very easy to do.—The variety of passions, prejudices, interests and understandings, with which men have entered into this contest, would

would account for still greater inconsistencies, than those which he has observed ; but if the ground has been weakly defended by *some*, does it follow that it is in itself untenable ? The reader will find that much more than one half of the Review is a compilation of the too little digested opinions of his opponents, and to this part of it I shall not reply, nor shall I follow the order he has observed in considering the rest.

The author has occupied so much of his pamphlet, as from page the 86th to page 92d (besides a long quotation afterwards, and several other passages interspersed through his work) to prove, that every man in England has not a *distinct* representative, and that therefore the pretensions of the colonists to *such* representatives must be ill founded. Had the *Review* of this writer been a little more general, he would have found the advocates of America disclaiming those pretensions, which he has taken such pains to refute. In *The Case of Great-Britain and America*, the author, speaking in the character of an American, demands, not a *distinct* representative for every *man* in America, but a *partial* representative, similar to that which Britain enjoys, for each colony ; and instead of making use of those arguments which the Reviewer had stated and answered, he thinks

himself injured by those who have imputed to him such reasoning. Says the Author of that pamphlet, which was published before the Review, " You have misrepresented my
 " claims; I have said, indeed, that a right
 " of suffrage in the choice of our representa-
 " tives, is the most essential of British pri-
 " vileges, but I have *not* said that *every* Bri-
 " ton enjoys that right, nor do I require
 " that every colonist should enjoy it.— In
 " being taxed by your parliament, you are
 " taxed by an *imperfect* representative; in
 " being taxed by our provincial assemblies,
 " we are taxed by a representative *as imper-*
 " *fect.*"—The whole scope of the reasoning
 which follows this quotation, is very differ-
 ent from that which the Reviewer attributes
 to the advocates of America.— But instead
 of considering their arguments as they have
 stated them, he has stated them himself as
 follows; " They say, that no man ought to
 " be taxed but by his *own consent*, or in
 " other words, that the consent of those
 " who *pay the taxes* is necessary to their be-
 " ing constitutionally imposed; that *this con-*
 " *sent* must be given by the people *them-*
 " *selves who pay the taxes*, or by their *distinct*
 " representatives chosen by them." It might
 not be easy to find the tenor of these words,
 nor exactly the purport of them in any au-
 thor

thor now extant; but it must be owned, that the Reviewer has exposed their fallacy in somewhat less than ten pages, and I congratulate him upon his victory over his imaginary antagonist. His misrepresentation is obvious. The case of Great-Britain and America requires, that the colonists should give an *implied* consent by their assemblies, as Englishmen do by their parliaments. In England, the members of parliament only can give an *actual* consent, the other subjects an *implied* consent only: when the Americans did the same in their assemblies, they were contented, nor did each individual think himself aggrieved, because he did not give his *distinct assent*. Do you not know (says The Case of Great-Britain, &c.) the infinite difference between a nation, where *all* have *not* the power of voting for their representatives, and a nation where none *have* that power?---If the Reviewer did know it, he has carefully concealed his knowledge. Whether that pamphlet contains a fairer state of the American claims than the Review has given, I am a very improper person to determine; but this I may say with certainty, that it has stated them in a very different manner, and that the Reviewer has not attempted to overthrow the arguments contained in that pamphlet.—And as he has replied

plied to other performances, for which he expresses the most sovereign contempt, it is not unfair to conclude, that it was not merely from contempt that that one was omitted.

The Case of Great-Britain and America is an argument of a very different nature from the Review: it is of the demonstrative kind, and consists of a chain of reasoning, tending to establish a positive truth.—It begins with an endeavour to prove the validity of the charters: first from the right which the crown has to grant them; secondly, from the length of time for which the colonists had possessed them: the author observes then, that they granted to the Americans *British privileges*; he then endeavours to shew what those privileges are not, and then to shew what they are.---He attempts to demonstrate that the constitution, which is imposed upon the colonists by the present measures, ought not to be their constitution, and he afterwards attempts to shew what of right it is, or what it ought to be.---If he has succeeded in these attempts, he has demonstratively proved his point, and has founded the rights of colonists, not upon the general rights of mankind, or upon metaphysical abstraction, but upon constitutional doctrines and positive proof. Instead then of answering a number of detached passages, refuting what never could

could make an impression, and with proving what never was denied, I shall endeavour to defend this system from any thing in the Review that seems to affect it.---It is the shortest method, and the most favourable to truth.

First as to the charters.---The Reviewer has taken up some pages to prove that the territory of America was not the private property of any monarch of England; and he has here proved very clearly another point which no man ever disputed. The Case of Great-Britain, &c. says, "The disposition of " it was vested in the *executive*," a word not very subject to misapprehension; it plainly indicates the king in his capacity of monarch, and relates not to any private property, but to his *prerogative*. The proper question therefore is, Whether the disposition of foreign territory was vested in the *crown* at that period? And this question the Reviewer has not thought proper to discuss. The Case of Great-Britain, &c. has appealed to immemorial and continued usage for the existence of this prerogative, the only proof to which we can appeal for that of the others, and we find this power has continually been made use of, to cede, to dispose, to sell, to demolish, and to colonize. The only argument, which I have ever heard against my
opinion

opinion as to this prerogative, is not in the Review, but is this, "That the crown may have a power over foreign territory, *fla-grante bello*, and that it may have a right to cede for the purpose of establishing peace; but it may not possess that power at any other time, or for any other purpose." But we find that practice, which is the only proof of the prerogative in the one case, is also a proof of it in the other.---The attempts to confine this prerogative are *modern* inventions, they are only coeval with the *importance* of it. Though the sale of Dunkirk, and demolition of Tangier, were *infamous* measures, it may not be easy to prove that they were illegal---they were abuses of a prerogative which the king *had*, not assumptions of a prerogative which he *had not*.---Now if the king could sell Dunkirk to the French in the time of peace, and subject all future settlers therein to such laws as the French king should make, could he not endow a colony that should settle in it, with the constitution of England, or that of Sparta, if he pleased, and they agreed to accept it?

But this prerogative of the crown is not the only title, on which The Case of Great-Britain, &c. founds the validity of the charters---Suppose (says that pamphlet) that the crown

crown had *not* been legally possessed of that power, is there not a term, after which uninterrupted possession confers a right? Have not the colonists possessed their charters much longer than that term? Have they not dedicated their lives and fortunes to the improvement of that country, from a dependance upon the validity of their title? Have not the British parliament seen and acquiesced in their doing so? Has not Great-Britain in her exclusive trade received a valuable consideration? “ Here we see *bona fides, longum*
 “ *tempus, et justa retributio*, which constitute
 “ a good title in the civil law, in the law of
 “ nations, and in the law of every nation in
 “ the world;---and when we judge of the
 “ rights of nations, it should be particularly
 “ attended to, as it is the only title by which
 “ the present possessions of almost every nation
 “ upon earth are now holden.” This is
another point which the reviewer has not thought it proper to consider.

Let us now consider that part of our subject which immediately follows.---The charters have conferred the privileges of British subjects; what is the meaning of these words? The *reviewer* observes, that the crown could not grant the privilege of *naturalization* to foreigners: undoubtedly it could not.---Nor do I believe that any American advocate
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asserted that it could.---But when the crown granted British privileges to the colonists, it did not grant to them the *identical* privileges of Britons, but privileges *of the same nature*.---It is the only interpretation of these words that is agreeable to law, or to common sense, for if they meant the privileges of *naturalization*, to whom could such a grant be addressed? Not to British emigrants, for they had them already: nor do Britons forfeit the privileges of naturalization, by residing in any foreign country; they and their children are still entitled to them; to those therefore the crown need not grant the privileges of naturalization.---Was it to the descendants of those children, or to foreigners who settle in the colonies? It could not be to those, for the crown has no power to naturalize any person whatsoever.---If the crown therefore granted the privileges of naturalization, or the *identical* privileges of British subjects, it granted either what it *need not* have granted, or what it *could not* have granted; and the kings who granted the charters, the ministers who dictated, the colonists who received, and the parliaments who have recognized and referred to them, must have either misunderstood the charters, or misunderstood the English constitution.---There remains then but one consistent interpretation of these words, “ the
I “ privileges

“ privileges of British subjects ;” namely, that they confer upon the Americans the same privileges, i. e. the same kind of privileges in America that Englishmen enjoy in England, the same restriction of the executive, and the same “ true property in their “ goods, which cannot be taken from them “ without their actual or *implied* consent.” Nay, lest there should be any doubt of the mode in which this *implied* consent should be given, the form of their assemblies *similar* to our parliament, and of their representation similar to ours, was established at the same time that those British privileges were granted.---But perhaps the most invincible argument of all is still remaining.---If the crown did *not* grant *similar* privileges to the Americans, but the *identical* privileges of Britons, which are enjoyed by the inhabitants of an English county, how could it have established those provincial assemblies, how could it have impowered those assemblies to raise taxes upon them ? From this accumulation of evidence it is clearly proved in what meaning of the words the crown conferred British privileges upon the colonists, and I shall say no more in support of that part of The Case of Great Britain, &c. where it discusses what these British privileges *are not*, and what they *are*.---If it be irksome to be referred

to those arguments in another pamphlet, a repetition of them here might be as irksome. I can find nothing in the Review that can in the least affect the chain of reasoning which that pamphlet contains, and until that chain be broken, I shall not be solicitous to answer every argument that may be produced; nor to detect every misrepresentation of the arguments on that side of the question which I espouse; much less shall I endeavour to defend the errors of those who have written on the same side with me: I am not answerable for them; and however the detection of them may affect the literary reputation of their authors, it does not affect the question itself. Thus I am exempted from an examination of above one half of the very prolix performance which is the subject of my observations; let no man therefore be surprized at the shortness of this essay, but let it be remarked, that I leave the author's introductory discourse in favour of his own candour, and the ill intentions of his opponents, his account of Mr. Grenville's merit, and his quotation from that gentleman's speech, intirely to their own operations, without an effort to destroy it; and that I interfere but very little in the contests between the reviewer and the *imaginary* opponents whom he has refuted. Let it also be considered, whether I do not (in the course of

of what follows) make the only necessary observation upon 30 pages in one sentence; and let it be observed, that I refer my readers frequently to another pamphlet, in which may be also found an examination of the degree of liberty enjoyed by the Americans under the present assumptions of parliament, some observations on the nature of bills of supply, on the state of representation in England when the colonies were planted, and on the applicability to the present question of the argument--- That parliament and not the house of commons is the representative of England.--- Whether the reviewer has overthrown any of the principles, which are there laid down, the reader will determine.

I shall now take notice of some of the fallacies which are interspersed throughout the Review of the controversy.---The author observes, that if the colonists reject the authority of parliament, they cannot claim any benefit under that authority. They have no claim to the amendments of the constitution, and they are still the subjects of the house of Stuart.---In this observation we see clearly his unwillingness to make any, the most obvious distinction, which is found too often throughout his pamphlet. Certainly if the colonists reject *all* acts of parliament, they have no right to such acts as are beneficial.---But when did they

they reject *all* the authority of parliament? By their charters they have no right to do so. Over every thing that relates to commerce, parliament has confessedly a power, nor did the colonists ever deny their being annexed to Great-Britain, or that the reigning monarch there is, *ipso facto*, their executive.---They have therefore a right to the benefit of the Hanoverian succession, and if it had proved a curse, it would have been their duty to submit to it. The reviewer lays a charge of inconsistency against the committee of the assemblies, “ where
 “ they profess to owe all *due subordination* to
 “ the parliament of Great-Britain, and at the
 “ same time (says he) mean to *disavow its*
 “ *authority.*” Had he considered, that they might allow it in *some* instances, and claim an exemption from it in *others*, he would have perceived that they might profess a *due* obedience, yet refuse an *unlimited* obedience, without any *inconsistency* or *mental reservation*. An observance of this distinction will enable the reader to detect a good deal of fallacy from the 22d page to the 29th.---A little candour and observation in himself will do it as effectually as a more minute enquiry by me. I do not wish to add dignity to this performance by swelling its dimensions, or to procure a seeming fulness by a real prolixity.

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The reviewer, in order to terminate the dispute at once, asks this question, which he calls a plain one---“ Are the people of the “ colonies British subjects, or are they aliens “ or foreigners?” It appears to me a very sophistical question, and for this reason---because the terms he makes use of are not sufficiently defined. Had he defined his meaning of the words *British subjects*, I should have answered his question without any preface---but, if he means one thing by these words, and I mean another, I may be entrapped, because the idea conveyed in my answer may be misapprehended. As well as I can collect from what precedes this question, the reviewer means, by the words “ *British subjects*,” persons *subject to every law made by the British legislature*. If this be his meaning, I answer freely, that I think the colonists *are not* British subjects, according to his sense of those words. But, according to my apprehension, the words *British subjects* may also convey another idea, and be the sign of a thought different from his thought; the colonists are subject to the crown of England as their executive, and are subject to the parliament *in some instances* as their legislature. From these circumstances they should, in my opinion, be called British subjects, though they be not, in all respects, in the same predicament as their fellow subjects within

within the realm.---In order that men should be fellow subjects, it is not necessary that they should have precisely the same identical immunities.---Such is my explication of the words *British subjects*; if they convey this idea to the reviewer, I answer him, that I think they *are* British subjects.---As I have made use of the words, “within the *realm*,” and as the reviewer affects not to understand that term, it is necessary that I should declare what I mean by it. By *the realm* * I mean the island of Great-Britain; the colonies I understand to be *dependencies of the realm*. Whatever be the meaning of the reviewer’s question, I have given a positive answer to it, because he seemed to think it unanswerable and decisive.---But, in my opinion, it would be very indecisive, had I left him to answer it in what manner he pleased, and had subscribed to *his* answer whatever it might be---for the privileges of the colonists do not depend upon their being British subjects. I have shewn, I think, incontrovertibly, that the charters conferred upon the colonists privileges *similar* to the British, and that such is the only possible meaning of the words *British privileges*. Now, if these privileges were granted by the proper authority,

* Before the charters were granted, the crown might have alienated the territory of America, but it never could have alienated any part of the *realm of England*.

(as I trust is sufficiently demonstrated) the colonists would be intitled to them, though the parliament should pass a law declaring them to be aliens.

Let us attend to the meaning of words, not to the sound. The reviewer has divided the pleas of the colonists into two parts, and with great appearance of fairness.---The first that he examines is---“ The title of the inhabitants of the colonies to all the rights, liberties, and privileges of Englishmen.” This sounds very fair; but mark the fallacy that follows: the meaning of the colonists is, that they are entitled to the same privileges in America that Englishmen have in England.---The reviewer answers them, as if they meant the privilege of being deemed *naturalized* in England.---The American committees resolve, that it is “ the undoubted right of Englishmen, that no taxes be imposed upon them but by their own consent given personally, or by their representatives.” Now what is the meaning of the argument which they would convey in those words? Do they mean, it is the right of Englishmen to have representatives? Our rights are of the same nature as theirs, therefore we have a right to have representatives; or do they mean “ we possess in *England* the privileges which Englishmen possess there, and therefore we can be

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“ taxed

“taxed no where except in Virginia?” Let the reader consider first how the words *ought* to be interpreted, and let him then consider how the reviewer has interpreted them.--- The other plea of the colonists he asserts to be---“ Their claim to *exemption* from jurisdiction of parliament.” This too has a very fair appearance; but when we find that the colonists mean only exemption in *some instances*, and that the reviewer considers them as claiming an intire exemption in *every* instance, we then perceive the fallacy which infects his whole performance. Equally fallacious is his application of Mr. Locke’s doctrine, that whoever enjoys any possessions under any government, gives his tacit consent to the laws made by that government.---Yes, certainly, whoever has any possessions in the colonies, is subject to all laws made by the government of the colonies.---But is this a proof that the English parliament is their government? Is it not intirely a different question? As inconclusive are the intire 30 pages, from page 106 to 136, where the Author has attempted to find an opposition between the opinions of Doctor Franklin and Mr. Dickenson, and those of the American assemblies, as to the origin of the last war.---This part of the pamphlet has already been observed upon in the London Chronicle, and the seeming opposition reconciled.

ciled.—But suppose that they were *not* reconcilable; suppose that the assemblies were of opinion that the late war was undertaken solely for the interest of the colonies; and suppose that they were right in that opinion; does the giving protection to a country entitle us to tax that country? If it does, the right of the English parliament extends over half of Europe; and France, the only part of the continent which we claim, is almost the only one to which we have not this pretension. Whether Britain opposed France in America, from a regard to her own interests, or to that of the colonists, I shall not dispute with the reviewer.---If the balance of obligation be on the side of Britain, she is entitled to gratitude, but is not herself to judge what retribution is adequate. If we protect a man from a robber, have we therefore a right to rob him ourselves? In page 137 the author again observes upon the right of the colonists to call his gracious Majesty George the Third their King.---I have already taken notice of this part of the subject, but I will transcribe one passage out of the Review, “ They will not surely acknowledge that “ parliament can give them a King, which is “ of all others the highest act of sovereignty, “ when they deny it to have power to tax or “ bind them in any other case.”---I have observed already, that the executive of England

is, *ipso facto*, the executive of the colonies ; I believe that no one has ever denied that he is ; if any one should do so, the charters which our monarchs have granted, and which reserve powers to their *heirs* and *successors*, are sufficient proof that he is so ; for the charters were granted under *the great seal of England*, which denotes his Majesty to be acting in the character and capacity of King thereof. When therefore the King speaks in the character of *King of England*, and mentions his *heirs* and *successors*, there can be no doubt but that by those words are meant his *heirs* and *successors* to that crown, whosoever they shall be, or however they may attain to it.---From hence it is clear, (if it were doubtful before) that his Majesty George the Third is their King, even though they should deny the power of parliament *to bind them in any other case*. But at what time or in what writing has any American thus *universally* denied the jurisdiction of parliament? Let the reviewer, if he can, produce to the publick any thing that can justify his assertion. The author proceeds to examine the *ancient rights* of the colonists, and he remarks that the charter, granted to the Virginia companies, empowers the officers, who were appointed by a council residing in London, to punish, pardon, *rule*, &c. the inhabitants of that colony.---Does not this shew clearly,

clearly, in what sense of the words those colonists were accounted *British subjects*?--- Certainly not in the same sense in which *native* or *naturalized* subjects are spoken of; for if it were, how could the crown empower the Virginia company to nominate officers over them, with power to pardon or punish? In this charter, the crown expressly stipulated for itself certain duties; and the reviewer, on this account, impeaches the veracity of the Virginia assembly, who resolved, " That the inhabitants of the said colony have always been taxed by themselves."---The payment of duties stipulated for at the time of receiving the charters and agreed to by the first settlers, cannot, in my opinion, be deemed a taxation by the *King's sole prerogative*, as the reviewer would insinuate.---But even if it were so, the veracity of the assembly would not be affected;---for the colony who passed the resolution are not the *same* colony that the reviewer speaks of, as being taxed by the prerogative.---The former charter was annulled, and consequently *that* society dissolved. The reason for which the former charter was abolished is singular; it was because those men who had absolute power to make ordinances, as well in cases *capital* as civil, had assumed to themselves a right *to levy money* of the inhabitants.---How sacred were the rights

of property held in those times, when these men who had absolute power in *capital* cases, and who had a general authority to govern, and to rule, to make ordinances, and constitutions, were yet deemed to exceed their authority *when they assumed a power of taxation?* Who would imagine that it was in the Review itself, that I found this instance?---The distinctions between legislation and taxation made by Mr. Locke, in his eleventh chapter, were at that time recent in the minds of men.---It is strange the reviewer should misrepresent, as he has done, this chapter, which treats of the extent of the legislative power, and mentions, as one of the limitations of it, that it “ must *not raise taxes* on the property “ of the people, without the consent of the “ people, given by themselves, or their deputies.” Instead of minutely examining what the reviewer has said upon Mr. Locke’s doctrine, I refer my readers to the book and chapter itself;---first, because it is the fairest and the shortest method; and, secondly, because it is not material to my argument, that I should explain Mr. Locke’s doctrine, which is not applicable to it: for it is evident, that Mr. Locke, in his eleventh chapter, requires that the people should give their actual consent by deputies equally elected.---I require only an *implied* consent by representatives unequally and

and partially chosen.---He speaks of a perfect state of a political freedom; I speak of the Americans, a people *not perfectly* free. Those who have asserted the colonists to be a perfectly free people, have, in my opinion, mistaken the meaning of these words. England herself is far from being *perfectly* free, as her House of Commons is very unequally chosen. The colonies have the same defect in their constitution, as their representation also is unequally distributed; but even, exclusive of this circumstance, they are not possessed of perfect freedom, as their commerce may be controuled by their mother country, and their natural rights of navigating the sea are in the hands of others.

When another charter was granted in lieu of that of which we have spoken, the reviewer observes that it authorized the raising of taxes only for *local* purposes. He has not drawn any consequences from this observation, therefore I have nothing to answer; but I must observe, that the charter empowers the assembly to levy rates and taxes for the *protection* and *preservation* of the inhabitants; expressions which include every purpose for which any people ought ever to be assessed by any power. The reviewer observes, afterwards, that the distinction between external and internal taxes took its rise from a restriction

striction in the * charter of Massachusetts Bay, which empowers the assembly to tax the inhabitants, but which, he says, does not empower it to lay any tax upon English traders frequenting their ports. That this circumstance gave rise to that distinction, in the present contest, is very improbable. The reviewer has not proved it to have been so by any argument, and if he had, it would have done his cause no service.---If an observation be well founded in itself, the cause which at first suggested it, is not material. If the Massachusetts assembly cannot tax *Englishmen*, does it follow from thence, that Englishmen can tax *them*?

I shall not pursue the reviewer through the observations which follow, as to the power of proprietors, and the prerogatives of the crown; it is foreign from my present purpose to consider the present extent of either of them over the colonies; I therefore shall suppress my sentiments. The Americans will pay all the attention it deserves to his friendly caution, “ That they may not return under the unlimited power of the crown, by disclaiming the authority of parliament.” But if even that were the alternative, I cannot discover that

* This author speaks of a *forfeiture* of that charter.—Must every antiquated mode of oppression be added to our new intentions?—Let him be content with the mischief that is done already; very sufficient for the day is the evil thereof.

their

their situation would be more deplorable in being slaves to a monarch, than in being the slaves of an assembly, which they have no share in constituting.---I should imagine that the latter condition would be more intolerable, but I can offer no decisive reason for my opinion. Slavery under every form is so shocking to common sense, and human nature, that I have never estimated its various miseries.---The reviewer has produced some instances of the opinions of different men, and of some parliaments which seem to contradict mine. I do not pretend to the honour of agreeing on this subject with every parliament that has been holden in England; but I must observe, that to produce the reasons on which these opinions were founded, would be a stronger authority than to enumerate the opinions themselves.---The lust of power has not at all times been a stranger to the breast of an English parliament; and if of late they extended their authority at the expence of domestic tranquillity, and by the misery of our foreign dominions, can we expect that they should have been reasonable in all former times when there were no such considerations to restrain them?---When the injuring a colony was the means of distressing an administration, when the colonies were too weak to intimidate, or too attentive to

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their planting even to take notice of an innovation; or, as in the time of the commonwealth, when the adherence to an opposite party brought down the vengeance of parliament.---I do not think, however, that the reviewer has been happy in his instances; those which speak of the annexation of the colonies to the English crown, are certainly no infringement of their rights.---The 25th of Charles II, which the reviewer declares to be the first which lays taxes upon the colonies for the sole purpose of revenue, does no more than subject certain goods to a duty upon their exportation from the colonies; and to do this is, in my opinion, no infringement of their rights; as I agree with Dr. Franklin, that the American seas are not to be navigated by the colonists without the permission of Great-Britain; and if the latter has a right to prevent, she may name terms upon which she will give her permission. The next act which is quoted, (the 7th and 8th of William the IIIrd) I have no objection to, and for the same reason. The act of the same year, which follows, grants certain powers to revenue officers; and, indeed, the right of exacting a toll on passing the American seas, necessarily implies a power to carry that right into execution. These are the only acts of the British parliament

liament which the reviewer has cited to prove the practice of parliament to tax the colonies; except the act which establishes the Post-Office.---The former relate only to *external* taxes, levied upon a trade which parliament may, in my opinion, not only burden, but annihilate if it pleases; the latter cannot be deemed a tax upon the vested property of the colonists; it takes nothing from them but what they pay with their own consent. The law which regulates the Post-Office is very different in its nature from a tax-law; whoever pays the postage of a letter, pays for his own convenience. By opening an office of this nature, the crown does no more than give to the subject this alternative, If you make use of my office, and my carriages, you must pay me so much.---If you will not, you shall not make use of my office.---An advertisement of a stage-coach is as much a tax as this is.---Such, and such only, are the laws which the reviewer has produced, as raising a revenue upon the colonies.---And he has shewn very clearly, by some of these instances, that parliament has thought itself at liberty to do whatever it pleased with the trade of the colonies.---This he has proved, and no more; and this was asserted in *The Case of Great-Britain*, before the Review was published.

lished. These being the instances produced, and the difference between these and internal taxations being evident, we must own that the reviewer speaks *too modestly* of Mr. Grenville, in disclaiming all *new* merit; and that the glory of that gentleman in procuring the stamp act is untarnished by any precedent.

There follows in the *Review* a copy of a bill for granting a revenue out of the province of New York.---This bill was so applicable to the subject, that several pages are occupied by it.--I confess, that I was surprized at reading it; but when I had done so, I found it attended with this trifling circumstance, That it had never been passed.---There follows a scheme drawn by General Shirley, which never was carried into execution; but which clearly shews it to have been the opinion of that officer, That Britain might tax her colonies.

The author of the *Review* will not give up his opinion to a Pitt or a Camden. Nor shall I resign mine to General Shirley.

I shall now answer the declamatory questions which are asked towards the conclusion of the *Review*. It is asked from what epocha are we to date the emancipation of the colonies from the sovereign authority of the *supreme legislature*? In a former question there

there was *one* equivocation, in this there are *two*; the first is in the word *emancipation*, to which he ascribes a different sense from that in which it would be taken by any colonist who should answer him.---The reviewer apparently means an *entire emancipation*. If that be his *idea*, I answer, That the colonists do not claim it from any epocha, because they never claimed any such thing; ---but if he means an emancipation from any right of the parliament to tax them, I answer, That they claim it from their very existence as a colony.---The other fallacy is in the words *supreme legislature*.---I shall never assert that any nation can be exempt from the authority of its supreme legislature, but I deny that, in the article of taxation, the parliament is the supreme legislature of the colonies. I do not allow it to be their *supreme* legislature in that instance, because it is not their legislature at all, as far as relates to the taxation of their vested property. Wherever the parliament has any rights at all over the colonists, it has rights superior and paramount to those of the assemblies, and is both in power and in dignity *supreme*; but as to the disposal of their vested property, the poorest freeholder in America has more right than all the rest of the world. Let not this generous nation imagine, that because men are

insignificant, we have a right to spoil them, or that because they are our inferiors, they have nothing of their own.—The terms *supreme legislature* being proper in *particular* cases, have received a general currency, and on the misapplication of these two words, depends a good deal of fallacy in the Review, and in the *State of the Nation*, and the frequent perversion of Mr. Locke's excellent doctrine.—If the misapplication of terms could enslave a nation, England would be of all nations the most enslaved. The appellation of *sovereign*, with which we address our monarch, implies him to be possessed of every power of the state.—Nothing is more clear than that our king is not, properly speaking, our sovereign.—It is asked, If the Americans will renounce their claim to the privileges peculiar to British subjects? I answer, That by asserting their freedom, they do not renounce that claim; but that if ever they shall pay unlimited submission to an assembly, constituted by men divided from them by the Atlantic, they will then renounce their privileges indeed.—It is asked, If they will renounce their title to the protection of Britain? I hope they never will. Whilst they pay allegiance to their mother country, and obey such laws as she has a right to make, they are intitled to her protection; but if nothing remains

remains to them but the choice of *who shall be their spoiler*, I know not whom they will chuse. It is asked, If they will relinquish their fishery? If it be necessary, I believe they will rather do so, than be degraded below the rank of men. But suppose they should surrender their liberties, how is that fishery, or any other possession, secure to them? It is a whimsical threat to say, Surrender to me *all* your property, or I will seize *a part* of it. It is asked, If they will exclude themselves from the British ports? If they will lose their trade to Great-Britain?—Had it been the interest of Britain to disclaim the American commerce, she would long since have done so; and she may do so still if it be her will. The emoluments which Britain gains by that trade, the advantages with which she enters into it, are well known, and have long pleaded for a reversal of our measures. It is well known whether Britain or her colonies send to the other goods highly manufactured, and which of them sends raw materials; and whether the trade of England be mutilated for the sake of the colonies, or that of the colonies for the sake of England. The reviewer seems to triumph in an observation, That the exports from the colonists to England are greater than their imports from this kingdom.

dom.—In general, that commerce is the most beneficial in which we export the greatest quantities of goods; because it is less burdensome to make the return in commodities than to make it in specie.—But our trade with the colonies is beneficial beyond all others, because, for a considerable part of what we receive from them, we make no return at all. The fishery of Newfoundland is almost all clear gain to the nation. Would this author insinuate, that it would be better to pay 400,000 l. worth of commodities for our cod-fish, than to get it for nothing? It is evident that the benefit of this trade consists not in what we *export to*, but what we *draw from*, the colonies.---This author, who has employed above an hundred pages to refute arguments which his opponents have disclaimed, and to combat opinions which his opponents had never formed, allots but a few sentences to the consideration of our trade with America.

The peculiar nature of that commerce, both as to its exports and its imports, a commerce almost intirely carried on by British capitals, a commerce in which we have a double profit and a double monopoly, the quality of the commodities, and the inconclusiveness of custom-house entries, as to their quantity, are never observed by this author. As if our exports

ports were the only source of our profit, he gives an account of their quantity, full of error and misrepresentation, and imagines he has been quite decisive.---He represents unfairly a fact, which, though true, would prove nothing in his favour: he threatens the Americans with an exclusion from the British markets, which he calls the best in Europe, as if they were *admitted* to them by our favour, not *confined* to them by our restrictions.---Somewhat, however, may be said in this author's favour; if he be really ignorant of the profits of our American trade, he is the less ridiculous in admiring the man who has destroyed it.

The author proceeds to question the Americans, how far they will carry those designs which he calls *paracidial*! To pretend to some property independent of a parent, does not come within the ordinary definitions of paricide, yet such is the *conciliatory* expression of this author. Is this the moderate language of a friend who would reconcile them to our government, or is it the fury of disappointed ambition? The means by which he would ensure their allegiance, the arguments by which he would convince, and the kindness by which he would conciliate, are worthy of each other. ---But the question which he proceeds to, is a very important one.---On what terms are the

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Americans willing to live with Great-Britain? Will they allow the jurisdiction of her legislature in any instance; and in what instances? Would to God that it never had been made necessary to answer such a question, and that England had so exercised her authority, that she need not have defined it.---There was a time when the colonists, a quiet and a mercantile people, little thought of agitating such a question. Happy under the government of Great-Britain, united both with the state and the individuals, they never thought of scrutinizing a power, of which they had felt nothing except the utility.---But when the stamp act had informed them that all security, all property was at an end, a very different spirit was awakened. Every man took up an opinion of his own, as to the rights of his countrymen, and a variety of passions and understandings gave different complexions to the American cause.---Acknowledging in the British parliament a power in some cases, they differed as to its extent, and were unanimous in one opinion only—that they were not entirely slaves.—That *some* privileges remained to them was certain, the doubt was about what they had resigned; what powers belonged to their mother country, from the very nature of a colony, what from the meaning and intention of their charters.

They entered into this discussion, certainly not very impartial or dispassionate examiners. A power over their commerce was confessed by all, a right to toll on navigating the seas was allowed by some, and all taxes for the purpose of revenue were rejected by others. It is not therefore very easy to declare, in the name of all the Americans, in what instance they will all allow the jurisdiction of parliament. It is easy to see how every thing is lost, but it is not easy to see how every thing may be recovered.---I am not such a quack in politicks as to promise an instant cure for an inveterate evil.—To repeal every act of taxation, must certainly be the first article of our reunion; but to say that they shall be immediately forgotten, does not lie within the power of parliament.---The effects of a pernicious administration will still be felt, like that infirmity which hangs upon us after a distemper is removed.---The most healing concessions of parliament must be followed by an attention in the minister, and by a dexterity of management heretofore unnecessary.—To point out a remedy, by which our divisions may be healed perfectly and suddenly, may not be possible; but to adopt measures by which our trade may be in a good measure restored, and the resentment of an injured people may be gradually abated, is still within our power. If we do not know

the terms to which every American would subscribe, at least we may consider what parliament has a right to insist upon. This then appears to me---That by the very nature of a colony (if other reasons were deficient) it must be annexed inseparably to its mother country, in every change of the succession, in all its fortunes, in all its calamities.---That being established to increase the commerce of the parent state, it is the right of that state to prefer its own commercial interests to those of the colony, and that it is of necessity the sole judge of the occasions upon which that right should be exercised. This right none of the American writers have entirely denied: but as they saw evidently that the colonies had been planted for the increase of trade, not as sources of revenue, they perceived a distinction between such duties as *regulated* the first, and such as were intended to produce the latter. The author of the Review laughs at this distinction, and tortures the word *regulation* into meanings which a lesser genius for perversion never could have dreamt of. For my own part, I neither agree with those American writers, nor with the author of the Review. I do not say with the reviewer, that there is *no* difference between taxes for the regulation of trade, and taxes for the purpose of revenue. It is true, as he observes, that the
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intention of a tax may not easily be proved : but if the purpose be criminal in itself, the difficulty of discovering it, does not make it the less criminal. Neither do I think with the Americans, that to lay a tax upon their exports or their imports is to exceed the power of the British parliament. The trade of the colonies is, in my opinion, at the mercy of the mother country ; she may annihilate it if she pleases, consequently, she may burden it. But when Britain feels herself possessed of such a power, she should consider the reasons for which it is allowed to reside in her. It resides in her, because the extension of her commerce was the first motive to colonization ; because that purpose would be defeated, if she had not a superintending power over the trade of the colonies ; and, because that power would be but an empty name, if it were subject to any restrictions but her own sense of equity, and of the confidence reposed in her. It may be asked, “ What is the use of this distinction ? ” “ Does it not come at last to the same point, “ to wit, that parliament *ought not* to impose “ taxes for the purpose of revenue ? ” Undoubtedly, I think it ought not ; with respect to the conduct which parliament should pursue, my conclusion is the same. But still there may be some use in my distinction.

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Though *parliament* should not attend to it, it may have some weight with the *Americans*. That if they see a tax imposed upon their trade producing revenue, they should not think the ties of their allegiance to be broken, or their original compact violated. That though they may call it an *abuse* of power, they may not esteem it to be new, and an unconstitutional assumption. The effects of these different opinions may be very different. We may understand this the better, by supposing a case brought more home to ourselves: If the king *makes a bad use* of his prerogative, we may apply to the constitutional forms of petition and remonstrance; but if he should *exceed* his prerogative, we are acquitted of our allegiance, the compact is broken, and we may make our appeal to heaven.

Incidental to its rights over the trade of the colonies, parliament must have a power of enforcing them, and of providing against the breach of such laws as it has a right to make. This extensively-operating power over trade and navigation, this right to sacrifice the interest of the colonists to her own, this degree of dominion over their natural liberty, together with all the honours and rights of sovereignty, reside in the mother-country; such are the terms which I would

would make for her. And, on the other hand, let the colonists possess the fruits of that soil, which by our permission they have cultivated; let them enjoy in security, at least from *our* rapine, that property which for our own sakes we permitted them to earn. But they must not *export* the produce of their own industry, in ships made by their own hands, nor navigate the sea which washes their coasts, nor import even the necessities of life without our permission.--- Such are the terms which I would make for the Americans. To a people who supplicate their mother-country for this state of *inferior* liberty, the *candid* reviewer proposes this question, “Is she to *pay* all, and you “to *enjoy* all?” Good God! do they desire to *enjoy* all, who do not aspire even to an *equality* of enjoyment, and who agree to hold so much of their natural liberty, not by their own right, but at our pleasure? Do they desire her to *pay* all, who in the last war, besides an heavy revenue, incurred a debt of 2,600,000 l. ? If, on the one hand, England cannot exact for her protection the price she pleases, the measure in which that protection is dealt out, lies also in her breast. If the *price* is given voluntarily, the *thing paid for* is given in the same manner. Each party is to be guided by it's own interest

interest or inclination; so far the bargain is made on equal terms. But when we consider, that that protection is made necessary to the colonies by the act of England, that she enters into war at her own discretion, but that the colonies have no such option, we must confess that Britain has some advantage. This too is as it should be. But how would the reviewer equalize the terms? According to him, England is to be judge of the protection she is to give; and of the price she is to receive for it, she is to be judge also. Did I imagine that the most iniquitous bargains bid the fairest for permanency, or that the greatest rapacity were always the greatest prudence, I should then say of this author's system, as of the project of Themistocles, That it was very advantageous to his country, but at the same time very unjust. But until he shall prove, that the precarious support of an extorted contribution be more valuable than the affections of two millions of subjects, and that voluntary assistance which has always kept pace with their ability, it must be remembered, that neither his cause, nor his hero, would be vindicated, though he had overthrown every argument for the freedom of the Americans. Had he proved it to be our *right* to tax them, he has yet done nothing, unless he proves it to be
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our *interest* also. But on the *prudence* of the present measures, a question which should have been determined, before that of *right* was agitated, this author has given me nothing to answer; nor shall I enter into an unprovoked discussion of a subject which has been considered in other publications *. It will scarcely be denied, that our respect with foreign powers is lessened, that our most valuable commerce has declined, that we are involved in many difficulties; but who can foretell their duration, their number, or the extent of their consequences? We may date the æra in which our fortunes began to decline, but we cannot ascertain the celerity of their decay. The distraction of the British empire followed almost instantaneously the days of her brightest splendor; the common catastrophe of all empires. Indebted as we were to liberty for the extent of our dominions, we endeavoured to maintain it by maxims different from those by which it was acquired. In vain did an upright administration attempt to restore to us, what an hundred years had given, and what one fatal moment had taken away: its power was probably limited, certainly of

* Case of Great-Britain, &c.—Observations on a late State of the Nation.—Considerations on the Dependencies of Great-Britain.

but short continuance.-----This I do not speak from any private knowledge of the members of that administration, but only from their public conduct.---I have no connection with any of them, nor with any of the Americans; I do not know that I have even an American acquaintance; I have no interest in this contest, except as far as it concerns the fate of Great-Britain.

One observation more, and I shall conclude. It must be confessed, that in the charter of Pennsylvania, there is a power *implied* in the British parliament to tax that colony; and the freedom of that people is as much destroyed as the freedom of a people can be destroyed by *implication*: but however this circumstance may affect Pennsylvania, it does not in the least affect the rest of the colonies.---But without considering how far parliament may with *prudence* take hold of this unhappy circumstance, let us consider how far she may do so with *justice*.---In the same charter where this power of parliament is *implied*, *British privileges* are *granted* expressly. Here there is a contradiction; which then shall we give up, the *positive grant*, or the *implication*? Certainly the *implication*.---Besides, there is in favour of their liberty another argument, continual practice ever since their establishment.

ment. And as the law presumes in favour of every man's innocence, where his guilt is in any degree doubtful; so where the liberty of a people is disputable, justice will decide that they shall be free. I do not agree with those metaphysicians, who require *perfect* liberty, as the only foundation of legitimate government; the English constitution itself could not bear an enquiry according to such maxims. But it is ridiculous to talk of *perfect slavery* as a *right*, or of *allegiance* under such a government, as a *duty*. You say (says Rousseau) that they are born slaves; you might as well say they were *not* born men; a sentiment, perhaps, not yet ungrateful to the ear of a Briton.

F I N I S.